

UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

In Re:

Archie C. Chavis And Wanda Chavis

Case No. 09-81611

Chapter 13

Social Security No. xxx-xx-0085 and xxx-xx-4059

Address: 2417 Landis Drive, , Durham, NC 27705-

Debtors

MOTION TO MODIFY PLAN

NOW COME the Debtors, by and through counsel undersigned, who move, under authority of 11 U.S.C. § 1329, to modify the Chapter 13 plan in this case, and in support hereof, the Debtors show unto this Court the following:

1. This case was filed on September 17, 2009, with the Chapter 13 plan being subsequently confirmed on December 18, 2009.
2. The Debtors propose to modify the Chapter 13 plan in this case in the following respects:

From: \$352.00 per month

To: \$352.00 per month through March, 2011, followed thereafter by \$200.00 per month.
3. The changed circumstances that justify the proposed modification are as follows:
 - a. The Debtors' vehicle was damaged in a car accident on or about 1/26/2011. Said vehicle secured an allowed claim held by Home Credit Corp., which secured claim was being paid "inside" this Chapter 13 case. The insurance company responsible for providing property damage insurance has declared the vehicle a "total loss", and the insurance company offered, by way of property damage settlement, the sum of \$5,043.00. Out of this settlement, Home Credit Corp. has accepted the sum of \$2,793.97 as full payment of their secured claim and has returned a surplus in the amount of \$2,249.03 to the Chapter 13 Trustee.
4. Any savings resulting from this modification will be necessary for the purchase of a new vehicle for the Debtor and his spouse. Accordingly, no amended schedules I and J have been attached.
5. In addition to the proposed modification, the Debtors requests that the remaining funds in the amount of \$2,249.03 be disbursed to the Debtor so that he may use the funds for the downpayment on a replacement vehicle.

6. The proposed modification conforms to the standards of confirmation set out in 11 U.S.C. §§ 1322 and 1325.

Appended Application for an Additional Attorney Fee

7. Counsel for the Debtors further applies herein, in accordance with Bankruptcy Rule 2016(b), for approval an attorney fee in the amount of \$250.00 to pay for the reasonable value of the services rendered, and to be rendered, with respect to this motion to modify, including, without limitation, the following:
 - a. Calls from and to the Debtors to discuss changes in their situation which necessitate this motion, to explain the procedures and requirements involved, and to advise the Debtors accordingly; and
 - b. Contact with the Trustee's office concerning the proposed modification; and
 - c. Re-evaluating and recalculating the Chapter 13 plan in this case; and
 - d. Drafting this Motion and Certificate of Service; and
 - e. Service of the Motion on all interested parties, which includes all creditors scheduled in this case, at the expense of the undersigned law firm; and
 - f. Filing of the Motion; and
 - g. Prospective attendance with Debtors at the hearing upon the motion, if any; and
 - h. Prospective drafting and filing of the proposed Order and Deputy Clerk's Certificate of Service; and
 - i. Prospective follow-up instructions to client, as will be necessary, following the granting of this motion.

These services were not taken into account in the contract for legal services entered into between the undersigned and the Debtors.

WHEREFORE, the Debtors pray that this Court grant their Motion, and modify the Chapter 13 plan accordingly. In addition, counsel undersigned requests that this Court approve a fee in the amount of \$250.00 to compensate undersigned for the services rendered or to be rendered with respect to this motion, said fee to be paid by the Chapter 13 Trustee as an administrative claim in this case.

Dated: February 18, 2011

LAW OFFICES OF JOHN T. ORCUTT, P.C.

/s Koury Hicks

Koury Hicks

North Carolina State Bar No.: 36204

6616-203 Six Forks Road

Raleigh, N.C. 27615

(919) 847-9750

CERTIFICATE OF SERVICE

I, Renee Nolte, certify under penalty of perjury that I am, and at all times hereinafter mentioned was, more than eighteen (18) years of age and that on February 18, 2011 , I served copies of the foregoing **MOTION TO MODIFY PLAN** electronically, addressed to the following parties:

Richard M. Hutson, II
Chapter 13 Trustee

Michael West
U.S. Bankruptcy Administrator

and by regular first-class U.S. mail, addressed to the following parties:

Home Credit Corporation
Post Office Box 15695
Durham, NC 27704

Archie C. Chavis And Wanda Chavis
2417 Landis Drive, ,
Durham, NC 27705-

All creditors with duly filed claims as listed on the attached Report of Claims Filed at the addresses listed thereon.

/s Renee Nolte
Renee Nolte